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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,525	12/27/2004	Frans A Audenaert	57402US004	6404
32692	7590	12/16/2008		
3M INNOVATIVE PROPERTIES COMPANY PO BOX 33427 ST. PAUL, MN 55133-3427			EXAMINER SELLMAN, CACHET I	
			ART UNIT 1792	PAPER NUMBER
			NOTIFICATION DATE 12/16/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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LegalDocketing@mmm.com

# Office Action Summary

**Application No.**

10/500,525

**Applicant(s)**

AUDENAERT ET AL.

**Examiner**

CACHET I. SELLMAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8 and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Allewaert et al. (US 6162369).

Allewaert et al. discloses a fluorochemical composition, which is used to impart stain and water resistance properties to a substrate. The composition comprises a fluorochemical oligomer which is formed by free radical oligomerization of fluorochemical monomers with a hydrocarbon monomer. The fluorochemical monomers comprise a fluoroaliphatic radical having 3 – 18 carbon atoms (col. 4, lines 31-49), an organic divalent linking group (col. 4, line 66 – col. 5, line 4) and a free radically polymerizable groups that contain an ethylenically unsaturated moiety capable of polymerization with itself or each other (see col. 5, lines 10-18 and see col. 5, lines 30-36). The hydrocarbon monomer can be vinylchloride and vinylidene chloride (see col. 6, lines 8-16). The composition is applied to the substrate in an amount of 0.01-5% by weight based on the weight of the substrate (col. 9, line 31-37). The composition can be applied to substrates such as plastic, metal, glass, fibrous materials such as textile fabrics, wood, non-wovens and paper (col. 10, lines 11-15). Allewaert et al. teaches that the fluorochemical compositions prepared have good stain release properties

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particularly for oily stains and water based stains (see abstract, col. 9, lines 46).

Allewaert et al. further states that the composition is preferably used as an aqueous emulsion (see col. 9, line 17). For the molar percentages see examples as required by claims 1-3 and 12.

In regards to claim 4,

Allewaert et al. teaches the use of cure sites (see col. 7, lines 56-61 and col. 9, lines 56-65).

In regards to claim 5,

Allewaert et al. teaches the optional units having Rh-L-Z (see col. 5, lines 51-67).

In regards to claim 6,

Allewaert et al. teaches that the linking groups can be alkylene, aralkylene, arylene, sulfonamide, carbonyloxy, urethaneylene (see col. 4, lines 58-64).

In regards to claim 7,

The fluorochemical can comprise a diisocyanate or isocyanate blocking agent (see col. 7, lines 66-67).

In regards to claim 8,

The non-woven substrate can be made of cellulose fibers (see col. 10, line 18).

In regards to claim 11,

The fluorinated monomer has a methyl group (see col. 5, lines 30-31).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allewaert et al. as applied to claim 1 in view of Weber et al. (US 5441056).

Allewaert et al. fails to teach that the fluorochemical composition is applied to a surgical drape, gown, or a wrapping for surgical instruments as required by claim 9. However, it was well known in the art to apply such coatings to surgical gowns etc in order to provide a repellent barrier as taught by Weber et al. It would have been obvious to one having ordinary skill in the art to apply such coatings to these products because both teach applying the coatings to non woven webs and Weber et al. teaches specific types of non wovens that can be coated with the fluorochemical composition.

5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allewaert et al. as applied above in further view of Behr et al. (US 6048952).

Allewaert et al. fails to teach that the fluorochemical composition is applied to a rain or outer wear garment as required by claim 9. However, it was well known in the art to apply such coatings to rain or outer wear garment in order to provide a repellent barrier as taught by Behr et al. It would have been obvious to one having ordinary skill in the art to apply such coatings to these products because both teach applying the coatings to textiles and Weber et al. teaches specific types of textiles that can be coated with the fluorochemical composition.

***Response to Arguments***

6. Applicant's arguments filed 9/19/2008 have been fully considered but they are not persuasive. The applicant argues that the Allewaert reference that the fluorochemical oligomer must be further reacted into the polyurethane in order to provide good stain release properties and that Allewaert fails to teach using the fluorochemical oligomer itself to provide good oil and water repellency properties (see page 3 of arguments).
7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., applying the coating to impart oil and water repellency) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).
8. The Examiner would also like to point out that the claim does not require the use of just a fluorochemical oligomer, the claim requires a fluorochemical composition **comprising** a fluoropolymer that **comprises**, the use of comprising means that the composition has the fluoropolymer but can also contain other materials such as in Allewaert a polyurethane. For these reasons the previous rejections are maintained.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ` whose telephone number is (571)272-0691. The examiner can normally be reached on Monday through Friday, 7:00 - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on 571-272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cachet I Sellman  
Examiner  
Art Unit 1792

/C. I. S./  
Examiner, Art Unit 1792

/William Phillip Fletcher III/  
Primary Examiner, Art Unit 1792